HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT APPEAL No.150 OF 2007

Between:

Palli Srinivasa Rao .... Appellant

AND

State of Andhra Pradesh,
represented by its Secretary, Department of
Tribal Welfare, Secretariat,
Hyderabad and others. .....Respondents

:: J U D G M E N T ::

Counsel for the appellant : Sri Siva

9th February 2007

Per G.S.SINGHVI, C.J.

Feeling aggrieved by order dated 5-1-2007 passed by the learned Single Judge in Writ Petition No.115 of 2007, whereby she refused to interfere with the direction given by Senior Divisional Technical Engineer (G), East Coast Railway, Waltair requiring him to appear before Director, Tribal, Cultural, Research and Training Institute, Hyderabad (respondent No.4), the appellant has preferred this appeal under Clause 15 of the Letters Patent.

The appellant was appointed as a Skilled Artisan in East Coast Railway in 1989 against the Scheduled Tribe quota. Subsequently, he was promoted to the post of Master Craftsman. While he was holding that post, notice dated 30-8-2006 was served upon the appellant proposing his dismissal from service on the allegation that he had secured employment by producing false community certificate. O.A.No.507 of 2006 filed by the appellant against the show cause notice was dismissed by the Central Administrative Tribunal, Hyderabad Bench by describing the same as premature. The appellant challenged the order of the Tribunal in Writ Petition No.19002 of 2006, which was allowed by a Division Bench of this Court vide its order dated 19-10-2006. The Division Bench held that during the subsistence of the community certificate, the concerned authority could not have issued the show cause notice to the appellant proposing his dismissal from service. However, liberty was given to the non-petitioners to take action in accordance with the provisions contained in the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (for short, 'the Act') and the rules framed

thereunder.

As a sequel to the aforementioned order of the Division Bench, Senior Divisional Technical Engineer, Waltair issued letter-cum-notice dated 20-11-2006, whereby he called upon the petitioner to appear before respondent No.4 with an elderly member of the family and furnish information about the relatives of his family and also submit documentary evidence to substantiate his social status as Scheduled Tribe.

The petitioner questioned the aforementioned letter-cum-notice in Writ Petition No.115 of 2007. The learned Single Judge referred to the provisions of the Act and Rule 9 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Issue of Community, Nativity and Date of Birth Certificates Rules, 1997, and dismissed the writ petition by recording the following observations:

> "In exercise of the rule making power conferred under Section 20 of the Act, Rules were made under G.O.Ms.No.58, dated 12-5-1997. Rule 9 of the said Rules provides for the procedure to be followed where a compliant is received by the District Collector about the false community certificate. Under sub-rule (1) of Rule 9 of the Rules, on receipt of such complaint the District Collector shall refer the case to the Scrutiny Committee formed under Rule 8 to enquire into the allegations and to send its findings. Thereafter, the Scrutiny Committee shall give a notice in Form-6 to the person involved in the case and then cause an enquiry after collecting documentary evidence about the correctness or otherwise of the allegations. During the said enquiry, the Committee shall also examine the report of the enquiry conducted by the Revenue Department and will also take into consideration the expert opinion from the Commissionerate of Social Welfare/Tribal Welfare through the officers of the Research Organisations of the said Commissionerate who are the members of the Scrutiny Committee, if necessary.
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> The 4th respondent-the Tribal, Cultural, Research and

Training Institute, is an expert body as provided under Rule 8 (d) (7) of the Rules. Hence, the appearance of the petitioner before the 4th respondent is only for the purpose of the expert opinion as provided under the statutory rules and ultimately the scrutiny committee will submit its recommendations to the District Collector on the basis of which the order under Section 5 will be passed.

In the circumstances, it cannot be held that the action of the respondents in directing the petitioner to appear before the 4th respondent is arbitrary, illegal or contrary to the provisions of the Act and the Rules made thereunder."

We have heard Sri Siva, learned counsel for the appellant and perused the record. In our considered view, the writ petition filed by the appellant was premature and the learned Single Judge rightly refused to entertain his challenge to the communication issued by Senior Divisional Technical Engineer, Waltair for appearance before respondent No.4. The direction given by the officer concerned does not adversely affect any fundamental, constitutional or legal right of the appellant. Therefore, we see no reason to restrain respondent No.4 and other competent authorities from taking appropriate action under the Act and the rules framed thereunder for determination of the genuineness or otherwise of the appellant's claim as a member of the Scheduled Tribe.

In the result, the appeal is dismissed.

As a sequel to dismissal of the appeal, WAMP.No.251 of 2007 filed by the appellant for interim relief is also dismissed.

G.S.SINGHVI, C.J.

9th February, 2007

C.V. NAGARJUNA REDDY, J.

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